

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN JOHN COBB**, on January 20, 2003 at 3:00 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John Cobb, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Kelly Gebhardt (R)  
Sen. Carolyn Squires (D)  
Sen. Mike Wheat (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Pat Murdo, Legislative Branch  
Mona Spaulding, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 66, 12/12/2002; SB 145,  
12/30/2002; SB 110, 12/20/2002; SB  
61, 12/12/2002  
Executive Action: SB 132; SB 61; SB 117; SB 149

**HEARING ON SB 66**

**Sponsor:** **SENATOR JOHN BOHLINGER, SD 7**

**Proponents:** **Pat Clinch**, Montana State Council of Professional Firefighters (MSCPFF); **Roger Hagan**, Officer & Enlisted Associations of National Guard of Montana; **Mike O'Connor**, Executive Director, Public Employee Retirement Administration (PERS)

**Opponents:** None.

**Opening Statement by Sponsor:** SENATOR JOHN BOHLINGER said SB 66 was brought by the Public Employee Retirement Administration (PERS) to amend SB 66 (SB006601.ash) making changes to allow for military service purchase at actuarial costs for vested members with at least five years service. The following people will be blended in to PERS: those members who are part of the Sheriff's Retirement System, the Game Warden and Peace Officer's Retirement System, the Highway Patrol Officer's Retirement System, Municipal Police Officer's Retirement System, and the Fire Fighter's Unified Retirement System. Passing SB 66 will make it financially feasible for a member to buy-in after five years of employment. If SB 66 passes, establishing a five-year window of opportunity, it will provide uniformity in the administration of the system.

**Proponents' Testimony:** Roger Hagan, representing more than 3,000 members of the Montana National Guard Officer and Enlisted Associations, rose in support of SB 66 and amendments. He said allowing purchase of military service credit from the time a member is vested will be more economical for the individual member.

**Mike O'Connor, Executive Director, Public Employee Retirement Administration (PERS),** distributed two handouts: Summary Tables for Montana's PERS Plans EXHIBIT(sts11b01), and The Public Employees' Retirement Board (PER Board) EXHIBIT(sts11b02). He also distributed the Montana Public Employees' Retirement System Member Handbook EXHIBIT(sts11b03). **Mr. O'Connor** said SB 66 is a way to reduce the cost of purchasing voluntary service without harming the retirement system. It requires the full value of the service be paid by the member. It allows an individual, who now would need eleven years of service, to purchase it after five years. It also expands the number of people who would be eligible to purchase that service. Since this is good policy, the amendments expand it to include all the systems the PERS Board administers, and to make the purchase of military service consistent among all those systems. He said there is another bill, HB 44, that is very similar to SB 66 as amended.

**Pat Clinch, President, Montana State Council of Professional Firefighters (MSCPFF),** said he represented firefighters in both the Public Employees Retirement System (PERS) and in the Firefighters Unified Retirement System (FURS). He said the firefighters in the PERS system do support the bill, and the amendments for the members in the FURS.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses: SEN. SPRAGUE**

asked **Mike O'Connor** to explain how the system worked using hypothetical examples. **Mr. O'Connor** said a 50-year old wanting to purchase one year of service could do so at 36% of salary. A 31-year old individual could purchase a year of service for 11.9% of salary. The earlier service is purchased, the better the buy. Another benefit of purchasing service is that it can be purchased with tax-deferred dollars. It is a tool that members can use to plan for retirement.

**SEN. SPRAGUE** asked why a person age 55 or older would consider buying service a good investment. **Mr. O'Connor** said whether it would be a good investment for that person would depend on individual circumstances. The closer to retirement when service is purchased, the more costly it is. Someone aged 59 buying one year of service would retire a year earlier with benefits starting a year earlier, so it is costly to the system. He said it may not be a good investment to purchase service at that late date.

**CHAIRMAN COBB** referred to two sets of amendments. He asked the Committee to disregard the set dated January 9. **Pat Murdo** said the correct set has five pages and is dated January 18, 2:34 p.m. **EXHIBIT(sts11b04)**

**CHAIRMAN COBB** clarified language in the amendments with **Mr. O'Connor**.

**Closing by Sponsor:** **SEN. JOHN BOHLINGER** thanked the Committee. He said rolling back the vesting time would allow for more people to buy in at affordable prices. He said he was in the Marine Corps in the late 50s. He looked at the possibility of applying his Marine Corp time to his retirement benefits. He said he was 66 years old, and will be 70 when he is term limited out of the Legislature. He elected not to buy service time because it cost too much. For younger people, SB 66 opens the door for an affordable buy-in.

**HEARING ON SB 145**

**Sponsor:** **SENATOR JOHN BOHLINGER, SD 7**

**Proponents:** **Tim Bryggman; Julie Flynn; Michael Lee; Mike Wherley;**

**Opponents:** **Mike O'Connor, Public Employee Retirement System (PERS)**

**Informational Witness:** **Steve Nelson, Director, Office of Community Service**

**Opening Statement by Sponsor:** **SENATOR JOHN BOHLINGER** said he became aware of issues dealing with public policy issues during his tenure on the Senate State Administration Committee and subsequent appointment to the Interim Committee that dealt with State Administration. It was during the Interim Committee study that the need for SB 145 became apparent. He said the Legislature spends a lot of time dealing with fairness issues, and fairness issues are at the heart of SB 145. Under present law, a vested member of PERS who is a military veteran can purchase up to five years service credit at actuarial cost. SB 145 allows those persons who served as a volunteer in a United States service program, such as the Peace Corp or an approved national service position as defined under the National Community Service Act of 1999, to purchase service credit for the time served. Passing SB 145 will have no fiscal impact on the general fund or the public retirement trust fund because members will pay the actual cost of the buy-in.

**Proponents' Testimony:** **Julie Flynn, representing herself,** said she was a returning Peace Corps volunteer who served from September, 1995 to December, 1997 in western Africa. She supports SB 145. She said the program was good public policy because it recognized the value of public service. She said it was comparable to what returning Peace Corps volunteers receive in other states. **EXHIBIT(sts11b05)**

**Tim Bryggman, representing himself,** said he was an economist for the Department of Natural Resources and Conservation, as well as a returned Peace Corps volunteer serving in Liberia West Africa in the 1980s. He supports SB 145.

**Mike Wherley, representing himself,** said he was an engineer for the Department of Transportation, as well as a returned Peace Corp volunteer serving in Liberia West Africa in 1973-74. He supports SB 145. It provides a chance for younger people to enhance their retirements, and it speaks to a fairness issue since other states do provide similar opportunities.

**Mike Lee, representing himself,** thanked the Committee and **SEN. BOHLINGER** for considering SB 145. He is a returned Peace Corp volunteer serving in Liberia West Africa along with his wife from 1974-76, and a military veteran. He said he has been employed for more than 20 years with Montana's Public Service Commission. He urged support of SB 145. He said there was a hold-harmless provision as there was for military service. **EXHIBIT(sts11b06)**

**Opponents' Testimony:** None.

**Informational Testimony: Mike O'Connor**, Public Employees Retirement System (PERS), said the retirement board stood for informational purposes. He said SB 145 was consistent with other service purchases that are available through the retirement systems.

**Steve Nelson, Director, Office of Community Service**, said he stood for informational purposes.

**CHAIRMAN COBB** asked if there was an amendment. **SEN. BOHLINGER** explained clarifying language in the amendment.

**Questions from Committee Members and Responses: SEN. GEBHARDT** asked why the bill was limited to the Peace Corps and AmeriCorp. **SEN. BOHLINGER** said sideboards were established, choosing to allow inclusion only to those serving in an approved national service program as defined in the National Service Act of 1999.  
{Tape: 1; Side: B}

**SEN. GEBHARDT** commented that volunteer firemen, search and rescue, or EMTs have at least as strong a position as someone that served overseas. They served the local people of the State and ought to be able to use the State retirement system equally.

**SEN. WHEAT** asked if consideration had been given to the people **SEN. GEBHARDT** mentioned, and if so what criteria was used. **SEN. BOHLINGER** said he was just the messenger, and referred the question to **Mr. O'Connor**. **Mr. O'Connor** said the Interim Committee was looking at Peace Corp Time where an individual had volunteer service with the federal government, but was not covered by any retirement system. The volunteer firemen in Montana have a retirement system. The sideboards that were established were to include federal volunteer service.

**SEN. SQUIRES** referring to the people mentioned by **SEN. GEBHARDT** asked if those people had asked for anything like SB 145 from the Interim Committee. **Mr. O'Connor** said the volunteer firefighters in unincorporated areas are covered by the Volunteer Firemen's Act. They did not come to the Interim Committee.

**SEN. SPRAGUE** asked if the pre-tax dollars referred to in the bill were pre-tax State or pre-tax federal. **Mr. O'Connor** said both.

**SEN. SPRAGUE** asked where was the point of diminishing return. **Mr. O'Connor** said both age and service had to be considered. Generally, a person past 18-20 years of service, or past age 50, would find purchasing service time very expensive.

**SEN. SPRAGUE** asked how he should explain benefits to constituents when they call. **Mr. O'Connor** referred to the handbook that provides a toll-free line to his office. Benefit analysts will be available to answer questions.

**Pat Murdo** asked for clarification of "membership service credit." **Mr. O'Connor** said he would prepare explanatory language.

**Closing by Sponsor:** **SEN. JOHN BOHLINGER** thanked the Committee. He said SB 145 represents good public policy because it acknowledges a contribution of public service for humanity. It also allows an opportunity to catch up, realizing when a person volunteers, time is taken away from a job. There is no cost to the trust fund, and it is something that has been done in other states.

### **EXECUTIVE ACTION SB 132**

**Motion/Vote:** **SEN. GEBHARDT** moved that **SB 132 DO PASS**. Motion carried unanimously.

### **HEARING ON SB 110**

**Sponsor:** **SENATOR KEN TOOLE, SD 27**

**Proponents:** None.

**Opponents:** None.

**Informational Witness:** **Mike O'Connor**, Public Employees Retirement System (PERS)

**Opening Statement by Sponsor:** **SENATOR JOHN BOHLINGER** said SB 110 comes at the request of the State Administration and Veterans' Affairs Interim Committee. SB 110 allows state and local elected officials who were retired prior to election, to continue receiving retirement benefits while they draw a salary as an elected official. He proposed an amendment to limit the provision to part-time local officials. Part-time State officials and full time State or local officials would not be included. He said now those individuals could work up to 960 hours. The amendment would extend that to 1248 hours. He said the full-time salaries of State elected officials and county positions represented real jobs. Other positions such as mayor or coroner are elected positions, but are part-time in nature.

**Proponents' Testimony:** None.

**Opponents' Testimony:** None.

**Informational Testimony:** **Mike O'Connor**, Public Employees Retirement System Board, said the Board neither supported or

opposed the bill. He said it was important to clarify that a person would have to be retired before running for office. The Board understands that there are a limited number of persons that would qualify; and that the bill is not attempting to limit the pool of candidates for elected officials. The Board has a concern that the scope of the provision might be expanded in the future. He supports the proposed amendment.

**Questions from Committee Members and Responses:** **SEN. WHEAT** asked how the system would be impacted. **Mike O'Connor** said retirement systems work because there is a cycle. As a person retires, another person comes as a replacement. The constant cycle makes a well-funded system. When the cycle is broken, for instance by having a retiree go back to work, paying retirement benefits and not replacing with a new person, the system becomes more costly. To have the same benefits, contributions to the system have to be increased.

**SEN. WHEAT**, following up on that logic, asked if State retirement systems would be impacted with current budget problems and lay-offs. **Mr. O'Connor** said the system has 30,000 members. The effects of lay-offs of 200-400 people won't noticeably change the cost of the system; not enough to require a change in contributions.

**SEN. WHEAT** gave for an example a person who worked in the system his entire working life, then retired, drew retirement, and accepted another job as an elected official. He asked how that would have such an impact on the performance of the retirement system to require this bill. **Mr. O'Connor** said it wouldn't. His concern is the that other groups will come forward wanting the same benefit. Somewhere a line has to be drawn or the system will be affected. **SEN. WHEAT** asked **Mr. O'Connor** if he really was an opponent of the bill. **Mr. O'Connor** said no. The Board understood the issues faced by small local governments. Miles City, for example, has many State employees. If those people were excluded from running for public office, there would not be a good selection pool.

**SEN. SQUIRES** asked **SEN. TOOLE** if he would be willing to continue to allow 960 hours of work, but to make the exception proposed for local officials. **SEN. TOOLE** said he wasn't intractable about raising the work limit to 1248 hours. He said he wasn't sure what the impetus was for the Interim Committee to make the proposal. His amendment sets limitations. **SEN. SQUIRES** expressed concern that the public would see benefits as accruing to Legislators. **SEN. TOOLE** said he considered that, but after doing the math, only in extraordinary circumstances would Legislators be affected. He said the reality was, in Helena for example, city officials are working for \$500 a month. Their service is not motivated by money. But it is difficult to recruit because not many people can ignore monetary remuneration. He said

to the extent local governments are helped to recruit good people, this is a good thing to do. **{Tape: 2; Side: A}**

**SEN. SPRAGUE's** (The question was lost in the tape change.) . . . military, we recruit them all the time. **Mr. O'Connor** said the retirement laws have a provision for return to work. Retirees drawing benefits are allowed to work up to the limit of 960 hours. Once they go over the 960 hour limit in a year, they have two choices: 1) either to return to work as an active member of the system and stop their benefit; or 2) their benefit will be reduced dollar for dollar. He said this bill would exempt retiring elected officials from the 960 hours provision.

**SEN. WHEAT** asked if that meant those people would have no limit on the number of hours they could work. **Mr. O'Connor** said that was correct.

**Closing by Sponsor:** **SEN. JOHN BOHLINGER**, following up on **SEN. SPRAGUE's** comments, said if a person retired from the railroad or Boeing or a similar entity, this bill wouldn't affect you. You would be able to get your retirement, and draw a salary from the city or county where you were working. But if you are in PERS, you would, after 960 hours, face a reduction in pay. He said that seems unfair. To the extent that it keeps people from serving as public officials, it is not good public policy.

#### HEARING ON SB 61

**Sponsor:** **SENATOR JOHN TESTER, SD 45, BIG SANDY**

**Proponents:** **Doug Bean**, President, Great Falls Airport Fire Fighters (GFAFF); **REP. BOB BERGREN, HD 90**, Hill County, Havre; **Pat Clinch**, President, Montana State Council of Professional Fire Fighters; **Roger A. Hagan**, GFAFF; **Angela Huschka**, State Auditor's Office; **Doug Neil**, Montana State Firemen's Association (MSFA); **Mike O'Connor**, Public Employees Retirement System (PERS); **Jerry Schultz**, GFAFF; **Rick Silva**, GFAFF; **Ray Yoder**, GFAFF

**Opponents:** None.

**Opening Statement by Sponsor:** **SENATOR JOHN TESTER** said SB 61 was a simple, one-page bill rectifying a problem that has continued for twenty years. The Montana Air National Guard Firefighter unit and its employees have been in the Public Employees Retirement System (PERS) when they should have been in the Firefighters' Unified Retirement System (FURS). Last session a bill was passed to allow all the new hires to belong to FURS. The bill allows the other 21 firefighters to be transferred into FURS. He said it was a fairness issue.



**Proponents' Testimony: Roger A. Hagan, Great Falls Airport Fire Fighters Association (GFAFF), and the International Associations of Firefighters Local 261**, said the firefighters in question are employed by the same employer--the Montana Air National Guard--whether they are in PERS or FURS. They are paid from the same funding source, have the same training requirements, they work day-to-day in the same fire station, and respond to the same calls for assistance. He said the only thing different is they do not share in common their retirement and survivor protection coverage. Last session allows for new hires to be under FURS. He said that is why there are 3 people under FURS and 21 under PERS. SB 61 would change that. He said the bill has been brought forward two sessions in a row, indicating to **Mr. Hagan** that the people have changed but the concept has not. The Department of Military Affairs (DMA) has worked on the bill. **General Moseley** asked **Mr. Hagan** to relay to the Committee that the DMA supports the bill and has signed the agreement with the PERS Board to indicate that the federal share of the revenues necessary for this change would be available in the next fiscal year. These firefighters are paid with federal special revenue funds that pass through to the State. He said the reason there was a general fund component was because the actuary funding of the Firefighters Unified Retirement System requires a 32.61 percent transfer of insurance premium taxes to the Firefighters Retirement System. He said people were in the room from the State Auditor's Office to speak to the funding process.

**EXHIBIT (sts11b07)**

**Rick Silva, GFAFF**, stood in support of SB 61. He explained that in addition to providing local and airport services, GFAFF provided services to the surrounding Great Falls communities and outside Cascade County as well. He said Great Falls Airport paid insurance premium tax. He said that tax, for the area the firefighters cover in a three square mile area, provides coverage for over one billion dollars in assets. Currently if one of the three FURS firefighters were hurt or disabled on the job, they would receive 50% of their pay for the rest of their lives. Currently the 21 firefighters covered under PERS would receive nothing in the same circumstances.

**REP. BOB BERGREN, HD 90**, Hill County, Havre, stood in support of SB 61. He said he had been a career firefighter for eighteen years. He said the 21 people covered by the bill belong in Firefighters Retirement System.

**Mike O'Connor**, Public Employees Retirement System (PERS), said the PERS Board supported SB 61. He reviewed the bill and explained how it would affect the 21 affected firefighters. He said the bill was actuarially sound. He said there would be an

election and four choices would be given to the 21 persons: 1) to stay in PERS; 2) to move to FURS but leave their previous PERS time with PERS; 3) transfer PERS to the FURS system, assuming responsibility for the actual cost to do that; or 4) transfer a portion of their PERS into the FURS system. He said employee contribution rates to FURS is higher than PERS--from 6.9% to 10.7%. The employer contribution will go from 6.9% to 14.36%. He said FURS is the proper retirement system for the 21 individuals, and it was an issue of policy that firefighters should be in the firefighters system and have benefits under that system.

**EXHIBIT (sts11b08)**

**Douglas Bean**, President, Great Falls Airport Fire Fighters Association (GFAFF), stood in support of SB 61. He reviewed the need for SB 61 stressing that PERS was never designed for firefighters.

**Doug Neil**, Montana State Firemen's Association (MSFA), stood in support of SB 61. He stressed that all 25 firefighters shared the same jobs and the same dangers, and should have the same coverage.

**Pat Clinch**, President, Montana State Council of Professional Fire Fighters, stood in support of SB 61. He said it had so far been a six-year process, through three sessions of the Legislature and three interim committees. The change needs to be made now.

**Angela Huschka**, Deputy Insurance Commissioner, State Auditor's Office, said **John Morrison, State Auditor**, was in support of SB 61 as a fairness issue. He believes all the comments made earlier do apply. These individuals should receive the same benefits.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:** **SEN. JOHN TESTER** referred to SB 4 and SB 50, the Veterans' Bills, saying sometimes bills like SB 61 get set aside in favor of bigger bills. **CHAIRMAN COBB** suggested ways to get SB 61 out.

#### **EXECUTIVE ACTION SB 61**

**Motion/Vote:** **SEN. GEBHARDT** moved that **SB 61 DO PASS. Motion carried unanimously.**

**EXECUTIVE ACTION SB 117**

**Motion/Vote:** SEN. GEBHARDT moved that SB 117 DO PASS. Motion carried unanimously. {Tape: 2; Side: B}

**EXECUTIVE ACTION SB 149**

**Motion:** SEN. SPRAGUE moved that SB 149 DO PASS.

**Discussion:** SEN. WHEAT expressed concern that geographic diversity would be diluted.

SEN. GEBHARDT said the line more-or-less follows the Continental Divide. He wondered if the population on both sides was about equal. He said it would seem the population on the east would be greater.

SEN. SPRAGUE said predictions were that Missoula would outpace Billings in less than ten years. Maps were consulted.

SEN. GEBHARDT asked what the advantage was to make the change.

CHAIRMAN COBB said leadership majority would have a better chance to pick the people they want.

SEN. WHEAT said he came down on the side of diversity.

The Committee discussed theoretical choices as the situation currently exists and as would exist with suggested changes in SB 149.

**Motion/Vote:** SEN. SPRAGUE moved that SB 149 DO PASS. Motion failed 1-4 with Cobb, Gebhardt, Squires, and Wheat voting no.

**Motion/Vote:** SEN. COBB moved that SB 149 BE TABLED. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 4:45 P.M.

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SEN. JOHN COBB, Chairman

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MONA SPAULDING, Secretary

JC/MS

**EXHIBIT (sts11bad)**